



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459


Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

WORKING SESSION MEMORANDUM

DATE: November 8, 2013

TO: Alderman Marcia T. Johnson, Chairman
Members of the Zoning and Planning Committee

FROM: Candace Havens, Director of Planning and Development
James Freas, Chief Planner, Long-Range Planning 

RE: #423-12: ALD. JOHNSON AND SANGIOLO requesting that the Director of Planning & Development and the Commissioner of Inspectional Services review with the Zoning & Planning Committee their analysis of the FAR regulations and assessment of the possible impact on housing construction and renovation in the City.

#328-12: DINO ROSSI, 362 Watertown Street, Newton, requesting that the current Table A in Section 30-15 of the City of Newton Ordinances be replaced with the Sliding FAR Scale Table that was presented by the FAR Working Group in their Final Report.

MEETING DATE: November 13, 2013

CC: Board of Aldermen
Planning and Development Board
Donnalyn Kahn, City Solicitor

INTRODUCTION

In February 2011, the Board of Aldermen adopted new residential floor area ratio (FAR) regulations under Ordinance Z-77, which changed both the way gross floor area is calculated and the allowed FAR in each residential zoning district; FAR is the ratio of the floor area of a building relative to the area of

the lot on which it is located and is used to regulate the mass of structures. Ordinance Z-77 sought to change FAR to more accurately reflect existing conditions, to make FAR easier to apply and enforce, and result in new residential construction in keeping with its surroundings. The new regulations became effective on October 15th, 2011 and were preceded and followed by extensive education of the building professional community. Petition #423-12 requests that the Planning Department and the Inspectional Services Department provide their assessment of the possible impacts of the FAR regulations since they went into effect in 2011.

The changes to the FAR regulations were in large part the result of the recommendations of a working group of building professionals and related stakeholders. The FAR working group worked with Planning Department staff to conduct a detailed analysis of the issue, looking at existing conditions, discussing the implications of FAR regulations, and testing potential ordinance amendments through a number of different realistic scenarios. The FAR group report recommended measures that they believed would be equitable across different building types and lot sizes across the City. The primary recommendations dealt with expanding the area of a building that counts towards the FAR measure and creating a sliding scale table that establishes the formula for calculating allowed FAR based on zoning district and lot size. Ultimately, the Board of Aldermen adopted a slightly different formula that lowered the allowed FAR across the all properties while incentivizing the use of current larger setback requirements on the so-called pre-'53 lots where such setbacks would not otherwise be required. Petition 328-12 proposes that the FAR regulations be amended again to utilize the recommended formula generated by the FAR working group.

BACKGROUND

The Planning Department has submitted information relative to the possible impacts of the new FAR regulations a number of times since their adoption, most recently in July 2013 and prior to that, in October, 2012 marking the one year anniversary of the rule change, and in a follow-up meeting in November, 2012. The general finding at that time was that the possible impacts of the new regulations were difficult to discern based on the limited time that had passed since the regulations became effective and broader market fluctuations. Any impact on the rate of home construction or renovation in Newton was impossible to accurately identify, as it is difficult to measure something that may not be happening; where that can be seen by comparison, it is difficult to ascertain a causal relationship between the rule change and any possible diminishment in the rate of building permits. Further, the rate of construction is so small in Newton to begin with that any design trends that may have been sparked by the rule change are still not greatly apparent.

While there are certainly more special permits being requested as a result of the FAR requirements than there were last year, that appears to be more a result of market trends than from the particular change made. The Department's recommendation remains that addressing the root issues of over-sized homes and neighborhood character that have resulted in the current FAR regulations should be taken up as part of the broader zoning reform effort envisioned in Phase 2 of zoning reform.

ANALYSIS

In previous reports, the Planning Department has presented data demonstrating a gradual rise in the number of building permits and special permit requests since the new FAR regulations went into effect

in October, 2011. This rise is consistent with the increasing rate of home construction seen in the greater Boston region over this same time period, which is itself a product of an apparently improving housing market and economy. This is presented below, updated to the present time.

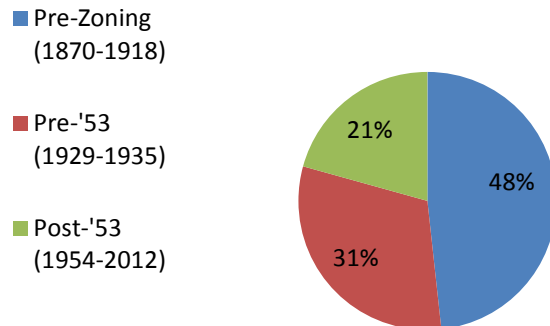
Comparison of years before and after change (Year is Oct. 15 to Oct. 14)	2010-2011	2011-2012	2012-2013 (as of Nov 1)
Total number of building permits	2,790	2,816	2,743
Total number of new home permits	73	82	90

Comparison of special permits (SP) for FAR (Oct 15 to Oct 14)	2010-2011		2011-2012		2012-2013 (as of Nov 1)	
	Number	Percent of Total	Number	Percent of Total	Number	Percent of Total
Approx. number of special permits	40	-	60	-	70	-
Residential SP for FAR	6	15%	14	23.3%	15	21%
Residential SP for FAR only	3	7.5%	6	10%	14	20%
Permits for new home construction	73	-	82	-	90	-
New Residential SP for FAR	0	0%	3	3.7%	1	1%
New Residential SP for FAR only	0	0%	2	2.4%	1	1%

The data clearly shows an increase in the number and percentage of special permit requests to exceed the allowed FAR. While the total number of special permits is increasing each year, as would be expected with the improving economy and increasing number of building permits overall, it is notable that the number of special permits just for FAR waivers is increasing both in number and as a percentage of the overall number of special permits. Increasingly, these FAR special permit requests are solely to address the FAR issue. The details of these special permit requests are provided in Appendix A.

Appendix B provides a map of the areas of the City where these special permit requests are coming from. In nearly every case the existing home exceeds the FAR requirement, a situation that is likely more common on older lots where lots tend to be smaller with the home covering more of the lot. All but six of these special permits are on so-called "old lots," dating to before the 1953 Zoning Ordinance rewrite, which required significantly larger lots for new homes. Overall, these special permits for additions and new homes represent a very small proportion of the overall building permit activity indicating that most City residents are able to add additions and even build new homes without having to get a special permit for FAR. Given the fact that most lots in Newton are non-conforming with the lot sizes required by the Zoning Ordinance since the 1953 revisions, it is likely that a significant portion of special permits in any given year will be for requests to exceed FAR, but this is less an issue caused by the FAR requirements and more of an issue created by the general level of nonconformity best addressed through a planning process as part of Phase 2 of the zoning reform effort.

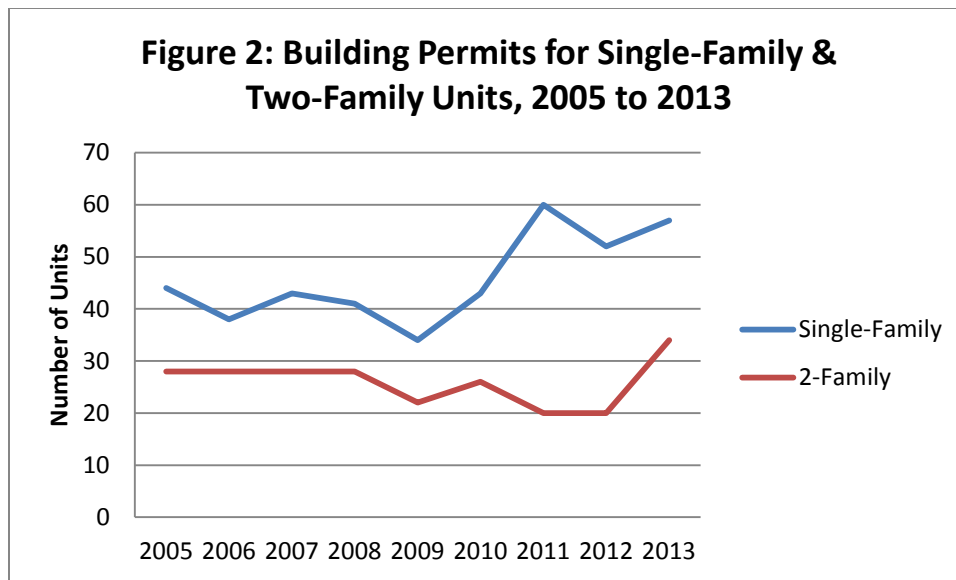
**Figure 1: FAR Special Permits,
By Year Built
Oct. 2011 to Current**



Impact of FAR Regulation on Two-Family Development

The petitioner in docket item #328-12 has suggested that the FAR regulations, as presented in Table A in section 30-15 of the Zoning Ordinance, are specifically an impediment to the development of two-family buildings in the City, requesting that the formula used in this table be amended to the original recommendation of the FAR Working Group. In a memo prepared for the Nov 26th, 2012 meeting of the Zoning and Planning Committee, staff demonstrated that a number of factors were likely involved in any perceived decline in the sale or production of two-family homes in Newton, including general market conditions and the declining availability of suitable lots zoned for this use. The memo also suggests that the difference between the two formulas for FAR likely represents a very small amount of potential additional square feet, as low as 100 square feet. One year later, comparing the building permits issued in Newton to regional numbers and past experience suggests that the rate of two-family production has returned to its pre-recession baseline.

In 2005 the City produced 28 units in two-family buildings and, remarkably, produced the exact same number each year until 2009 when it dropped to 22 units, as might be expected given the recession. After an increase in 2010 back up to 26 units, it dropped to 20 each year in 2011 and 2012. In 2013 the number of units produced has increased to 34. This trend, shown in Figure 2 below along with the production rate over this same time period for single-family units, reflects the state of the economy and likely also the variability induced by the challenges of finding suitable properties on which to build two-family homes. Even if the drop in 2011 and 2012 were in some way connected to the adoption of the new FAR regulations, the number of building permits issued in 2013 would indicate that these regulations are somehow no longer a significant factor.



In considering potential impacts of the FAR regulations it is also important to assess whether Newton is lagging the region on the production of either single or two-family homes. One way to assess this issue is by looking at the percent change from year to year in the number of building permits issued in each category. The Boston Foundation, in conjunction with the Dukakis Center for Urban and Regional Policy and the Warren Group, issues an annual report called the Greater Boston Housing Report Card detailing the rate of housing production in the region and related issues of public policy and economic growth. Using data from this report, drawn from U.S. Census data covering 159 municipalities in greater Boston (excluding Boston itself) Figures 3 and 4 below demonstrate that the rate of unit production has generally tracked with regional rates, allowing for a higher rate of variability in Newton given the significantly smaller sample size. Again, availability of land in any given year is a significant deterrent of the rate of production. Figure 5 demonstrates that Newton's rate of productions, as a percentage of the region has actually increased over time.

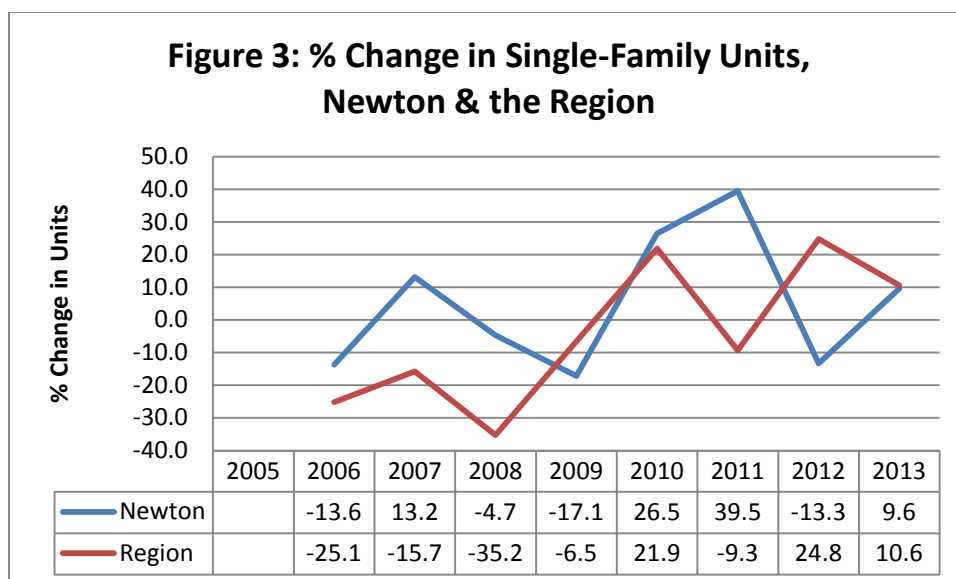
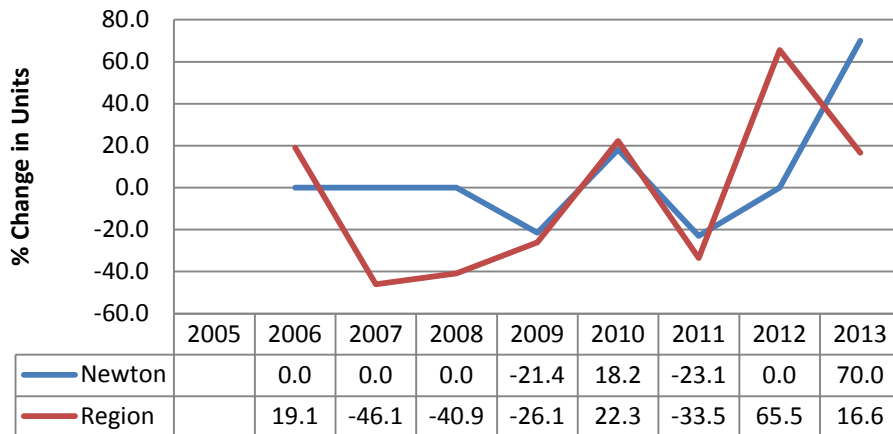
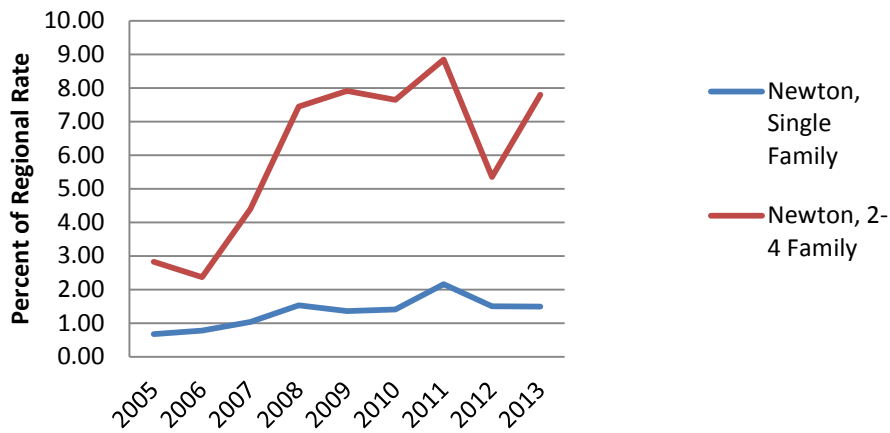


Figure 4: % Change in Units in Two-Four Family Buildings, Newton & the Region



Newton Housing Productions as a Percent of Regional Housing Production



NEXT STEPS

The Planning Department and Inspectional Services Department continue to monitor development activity in the City and any potential impacts from FAR regulation change. As stated in previous reports on this topic, the Planning Department's recommendation remains that consideration of changes to the FAR regulations be considered in the context of the comprehensive zoning reform Phase 2 efforts. The Land Use Committee is also paying close attention to the FAR issue and is discussing ways of improving their ability to review these projects through guidance, policy, or rule change. That Committee has docketed an item to consider a "de-minimis" rule for FAR that would essentially allow requests to exceed FAR limits by small amounts to proceed with administrative review rather than the lengthier special permit process. Staff welcomes any questions or concerns relative to the FAR regulations on which the Committee would like additional staff research.

ATTACHMENT A: Special Permit Projects (Oct 15, 2011 to Nov 1, 2013)

Date	Address	Zone	Waivers	Size of Lot (sq. ft.)	Allowed FAR	Bonus	Existing FAR	Proposed FAR	Existing (sq. ft.)	Size of Addition (sq. ft.)	Number of sq. ft. over allowed FAR	SP under old rule	SP under interim rule	Notes
Oct-11	56 Waldorf Road	MR1	FAR, ext NC	5,403	0.57	No	0.36	0.60	1,945	1,297	162.09	Yes	Yes	Large two-story addition on a small lot
Nov-11	14 Loring Street	SR2	FAR	8,500	0.40	No	0.48	0.54	4,080	510	1,190.00	Yes	Yes	Replace existing screened porch with large home office on existing large house, modest lot
Nov-11	143 Lincoln Street	SR2	FAR, change NC	11,775	0.36	No	0.24	0.42	2,826	2,120	706.50	Yes	Yes	Doubling the size of a modest two-family to create two attached dwellings
Dec-11	39-41 Clarendon Street	MR1	FAR	11,130	0.50	Yes	0.55	0.58	6,122	334	890.40	No	Yes	Enclose existing porches
Dec-11	43 Hillside Avenue	SR2	FAR, ext NC	8,365	0.41	No	0.54	0.66	4,517	1,004	2,091.25	Yes	Yes	3.5-story addition to large victorian on a lot sloping to the rear
Jan-12	1841 Commonwealth Avenue	SR2	FAR, ext NC	8,475	0.40	No	0.34	0.48	2,882	1,187	678.00	Yes	Yes	Two-story addition and one car garage replacing existing two car garage
Mar-12	111 Pleasant Street	SR2	FAR, ext NC	5,628	0.45	No	0.72	0.76	4,052	225	1,744.68	Yes	Yes	Enclose rear porches on nonconforming two-family and structure on small lot
Mar-12	112 Exeter Street**	SR1	FAR, 3rd story	16,080	0.32	Yes	0.29	0.36	4,663	1,126	643.20	Yes	Yes	Submitted under pre-Oct 15 rules, large split level

															ranch looking for 3rd story addition
Mar-12	112-116 Dedham Stree #4 (new)	SR3	FAR, rear lot sub	15,033	0.24	No	n/a	0.36	n/a	5,412	1,803.96	Yes	Yes	Large home on rear lot subdivision with FAR waiver under Section 30-15, Table 4 for rear lots	
Apr-12	150 Countryside Road (new)	SR1	FAR	25,000	0.26	No	n/a	0.28	n/a	7,000	500.00	No	No	New 2.5 Story House	
Apr-12	35 Norwood Avenue (new)	SR2	FAR	9,573	0.39	No	n/a	0.45	n/a	4,308	574.38	Yes	Yes	New 2.5 Story House	
Apr-12	258 Nevada Street	MR1	FAR, ext NC	11,122	0.48	No	0.31	0.57	3,448	2,892	1,000.98	Yes	Yes	Conversion of two-family to attached dwellings, new addition nearly doubling size of structure	
Jun-12	97 Hillside Avenue	SR2	FAR	12,551	0.35	No	0.48	0.52	6,024	502	2,133.67	No	Yes	Demolition of existing garage, new attached garage on large 4-story victorian	
Aug-12	54 Oxford Road	SR3	FAR	7,681	0.48	Yes	0.71	0.73	5,454	154	1,920.25	No	Yes	Large nonconforming house on modest lot making small addition	
Dec-12	37 Columbine Road	SR1	FAR	15,415	0.33	Yes	0.33	0.36	5,125	440	462.45	Yes		Addition and deck	
Jan-13	55 Alban Road	SR2	FAR	13,020	0.35	No	0.38	0.40	4,999	190	651.00	Yes		Addition to west corner of house, fill in 2nd story deck to expand master suite	
Feb-13	105 Nonantum Street	SR2	FAR	5,872	0.45	No	0.41	0.53	2,400	678	469.76	Yes		Renovate attic into master	

														bedroom and bath suite
Feb-13	12 Fellsmere Road	SR2	FAR		8,500	0.40	No	0.39	0.50	3,338	945	850.00	Yes	Addition to west corner of house, fill in 2nd story deck to expand master suite
Mar-13	132 Hammond Street	SR2	FAR		13,561	0.34	No	0.36	0.43	4,905	880	1,220.49	Yes	1-story addition to rear, adding family room, kitchen area, deck. 2nd garage bay behind existing single car garage
Apr-13	99-101 Atwood Road	MR1	FAR		7,434	0.54	Yes	0.56	0.65	4,831	510	817.74	Yes	Expand 1st floor unit to include master bedroom, bathroom, screened-in porch at rear, built over carport for 2 cars
Apr-13	140 Church Street	MR1	FAR, decrease OS, exceed LC		9,070	0.51	Yes	0.76	0.77	6,896	109	2,358.20	Yes	Add mudroom off rear kitchen entry. Fill in corner in rear of kitchen
Apr-13	20 Burrage Road	SR2	FAR		5,771	0.45	No	0.45	0.48	2,789	210	173.13	Yes	2-car garage in lower basement level
Jun-13	80 Dartmouth	SR1	FAR		19,371	0.30	yes	NA	0.32	NA	6,279	462.00		New house
Jun-13	15 Rice St	SR2	FAR		6,944	0.43	no	0.46	0.47	2,150	22	277.76	yes	square off corner in kitchen
Jun-13	42 Braeland Rd	MR1	FAR		4,767	0.46	no	0.65	0.71	2,454	170	1,191.75	yes	kitchen addition
Jul-13	31 Loring St	SR2	FAR		11,374	0.39	yes	0.46	0.48	5,287	122	1,023.66	yes	small addition

Jul-13	38 Beechcroft	SR1	FAR	19,058	0.29	no	0.28	0.35	6,724	1,332	1,143.48	yes	attached garage with space above
Jul-13	37 Baldpate Hill Rd	SR1	FAR	23,455	0.29	yes	0.36	0.41	8,551	1,012	2,814.60	yes	expand mudroom add breakfast and seating area on first floor, add guest bed and computer room on second floor
Sep-13	71 Montvale Crescent	SR1	FAR	12,000	0.32	no	0.37	0.38		130	720.00		replace garage

** Submitted under the pre-Oct 15 old FAR rules; needed a special permit either way, but smaller waiver required under old rules

Location of Special Permits Requesting FAR Waivers, Oct 2011 to Current

